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(Date of Transmission)

FRANK C. NICHOLAS (33,983)
Name of applicant, assignee or registered representative
Frank C. Nicholas
Signature
March 9, 2005
Date of Signature

RECEIVED
MAR 21 2005
GROUP 3600

PATENT
Case No. AUS920010193US1
(9000/34)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

KEITH K.T. HO

Serial No.: 09/821,066

Filed: MARCH 29, 2001

For: METHOD AND SYSTEM FOR
INVENTORY MANAGEMENT

)
)
) Examiner:
) GART, MATTHEW S.
)
) Group Art Unit: 3625
)
)
)
)
)
)

PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 1.181(a)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Please enter the following remarks.

On February 9, 2004, the PTO mailed a document that was later alleged to be a Final Rejection. However, the document received by Applicant (attached as Exhibit A) is not a final rejection for this application, but instead a Notice of Abandonment for United States Patent Application 09/585,859 for Chen, Li-Heng.

In response to this notice, Applicant's counsel promptly contacted the Examiner on February 16, 2004 to request mailing of the correct office action for this application. In response, the Examiner courteously agreed to do so, and issued an interview summary on February 19 (mailed February 24, 2004 and attached as Exhibit B) indicating that the final office action would be remailed, and "the time has been reset to expire from the mailing date of the remailing." As shown by PAIR (printout from March 9, 2005, attached as Exhibit C), the final office action was never remailed.

From November 2004 through January 2005, Applicant's counsel has had numerous conversations with both the Examiner and his supervisor. Applicant greatly appreciates the assistance provided by both the Examiner and Supervisor Coggins, both of whom indicate that the application is currently abandoned and suggested that Applicant file this instant paper.

Applicant has not received and has been denied the opportunity to respond to an office action, and has not delayed prosecution in this matter. Applicant contends that the application is not in fact abandoned as there is a dispute as to controlling dates. Applicant contends that no controlling date exists.

In light of the fact that this petition has been rendered necessary by PTO error, Applicant requests that no fee be charged.

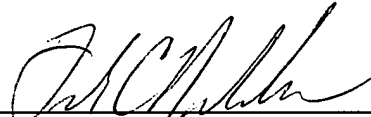
CONCLUSION

Applicant respectfully requests that any holding of abandonment be withdrawn for this matter. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

Dated: **March 9, 2005**

Respectfully submitted,
Keith Ky Treiu Ho

CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, Illinois 60201
Phone: (847) 905-7111
Fax: (847) 905-7113



Frank C. Nicholas
Registration No. 33,983
Attorney for Applicants



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,066	03/29/2001	Keith Ky Trieu Ho	AUS920010193U1	5343

7590 02/09/2004

Frank C. Nicholas
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1603 Orrington Avenue, Suite 2000
Evanston, IL 60201

EXAMINER

GART, MATTHEW S

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 02/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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GROUP 3600

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FEB 11 2004
CARDINAL LAW GROUP

Notice of Abandonment

Application No.

09/585,859

Applicant(s)

CHEN, LI-HENG

Examiner

Nga B. Nguyen

Art Unit

3628

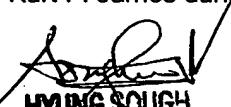
ML

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address–

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 06 June 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Examiner confirmed the abandonment of the application with the attorney Kurt F. James during the telephone conversation on January 21, 2004.


HYUNG SOUH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3628

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,066	03/29/2001	Keith Ky Trieu Ho	AUS920010193U1	5343

7590 02/24/2004
Frank C. Nicholas
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EXAMINER	
GART, MATTHEW S	
ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Interview Summary

Application No.

09/821,066

Applicant(s)

HO, KEITH KY TRIEU6

Examiner

Matthew s Gart

Art Unit

3625

ML

All participants (applicant, applicant's representative, PTO personnel):

(1) Matthew s Gart.

(3) _____.

(2) Paul Hietko.

(4) _____.

Date of Interview: 16 February 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: N/A.

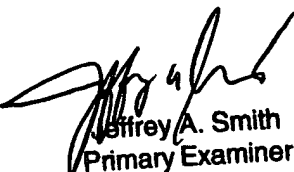
Identification of prior art discussed: N/A.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: A final office action (paper no. 5) was mailed to the attorney on 2/9/2004. The attorney alleges that he never received a copy of the final office action (paper no. 5), but instead received a mis-matched correspondance. The examiner agreed to remail a copy of the final office action (paper no. 5). Time has been reset to expire from the mailing date of the remailing..

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.


Jeffrey A. Smith
Primary Examiner

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.



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Other

Patent Application Information Retrieval

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Application Number **SUBMIT**

09/821,066 Method and system for inventory management

Application Data	Transaction History	Published Documents	Publication Dates	Address & Attorney/Agent
		Date	Content	
		02-24-2004	Mail Examiner Interview Sum	
		02-19-2004	Examiner Interview Summary F	
		02-09-2004	Mail Final Rejection (PTOL -	
		02-06-2004	Final Rejection	
		01-29-2004	Date Forwarded to Examiner	
		01-23-2004	Response after Non-Final Acti	
		10-23-2003	Mail Non-Final Rejection	
		10-20-2003	Non-Final Rejection	
		04-23-2002	Case Docketed to Examiner i	
		04-09-2002	Case Docketed to Examiner in	
		03-29-2001	Information Disclosure State	
		07-13-2001	Case Docketed to Examiner in	
		05-11-2001	Application Dispatched from	
		05-09-2001	Correspondence Address Cha	
		04-13-2001	IFW Scan & PACR Auto Secu	
		03-29-2001	Initial Exam Team nn	

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